

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

In The Matter of Charges and
Complaint Against
JAMES S. TATE, M.D.,
Respondent.

Case No. 09-9809-1

FILED

SEP 28 2011

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

D. P. COOPER

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The above-entitled matter came on regularly for decision on the Complaint filed herein before the Nevada State Board of Medical Examiners, hereinafter "Board," on Friday, September 9, 2011, at the Board's offices located at 1105 Terminal Way, Suite 301, Reno, Nevada, 89502, and by video conference at the offices of the Nevada State Board of Dental Examiners located at 6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada 89118. Respondent James S. Tate, M.D., hereinafter "Respondent," was present at the Board meeting in Reno, with his attorneys. Robert McKenna, Esq. being present in Reno, and Jacob Hafter, Esq. being present in Las Vegas.

The members of the Board participating in the decision were: Beverly A. Neyland, M.D., Michael J. Fischer, M.D., Ms. Donna Ruthe, and Mrs. Sue Lowden. Harry Ward, J.D., Deputy Attorney General, acted as legal counsel to the Board.

The Board, having received and read the Complaint and exhibits admitted in this matter, as well as the Synopsis of Record prepared by the hearing officer who presided over the hearing and the transcript of the hearing, proceeded to make a decision pursuant to the provisions of NRS Chapters 233B and 630.

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1 The Board, after due consideration of the record, evidence and law, and being fully
2 advised in the premises, makes its FINDINGS OF FACT, CONCLUSIONS OF LAW AND
3 ORDER in this matter as follows:

4 **FINDINGS OF FACT**

5 **I.**

6 Respondent held a license to practice as a physician in the state of Nevada at all
7 relevant times.

8 **II.**

9 On December 1, 2009, the Investigative Committee filed the Complaint in this matter
10 alleging violations of Chapter 630 of the Nevada Revised Statutes ("NRS") and Chapter 630
11 of the Nevada Administrative Code ("NAC").

12 **III.**

13 On July 20, 2011, a hearing was held before an appointed hearing officer on the
14 allegations contained within Count II of the Complaint after Count I was dismissed at the
15 beginning of the hearing pursuant to the recommendation of the hearing officer and the
16 evidence to be adduced at the hearing. Respondent was present and represented by
17 counsel, Robert McKenna, Esq. and Jacob Hafter, Esq. The Investigative Committee was
18 represented by Bradley O. Van Ry, Esq.

19 **IV.**

20 Patient A was a fourteen (14) year-old male who was admitted to
21 University Medical Center (UMC) on August 2, 2008, after he was seriously injured when run
22 over by an automobile and dragged beneath it for several feet. Patient was examined and
23 evaluated by Respondent, who recommended discharge to home.

24 Patient A returned to UMC on August 5, 2008. Respondent subsequently came to
25 Patient A's room and was insulted with profanities by Patient A's father and grandmother as
26 he was leaving the room.

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1 Respondent turned around, returned the insults with verbal insults and profanities of
2 his own and ended up in a yelling match with Patient A's father and grandmother.
3 Respondent did touch Patient A's grandmother with his finger in an attempt to get her away
4 from him.

5 Finally, a nurse from UMC stepped in-between the parties and the situation ended.
6 Respondent then left.

7 **V.**

8 The Board finds by reliable, probative and substantial evidence that Respondent
9 violated NRS 630.301(9) when he engaged in conduct that brought the medical profession
10 into disrepute by participating in the ongoing verbal altercation with Patient A's father and
11 grandmother.

12 **VI.**

13 If any of the foregoing Findings of Fact is more properly deemed a Conclusion of Law,
14 it may be so construed.

15 **CONCLUSIONS OF LAW**

16 **I.**

17 The Board has jurisdiction over Respondent.

18 **II.**

19 Respondent was properly served with notice of the hearing via certified mail at the
20 address on file with the Board pursuant to NRS Chapter 630 and
21 NRS Chapter 233B.

22 **III.**

23 The Board concludes that Respondent has violated NRS 630.301(9), as described
24 above and as alleged in Count II of the Complaint, and, that accordingly, he is subject to
25 discipline pursuant to NRS 630.352.

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1 IV.

2 If any of the foregoing Conclusions of Law is more properly deemed a Finding of Fact,
3 it may be so construed.

4 **ORDER**

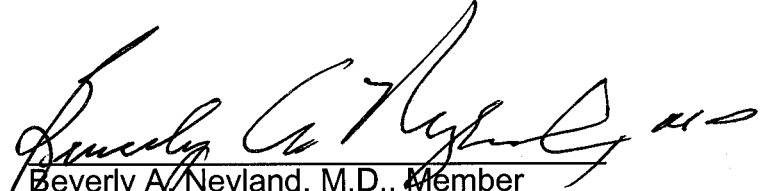
5 Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause
6 appearing therefore,

7 **IT IS HEREBY ORDERED that:**

- 8 1. Respondent shall be issued a public reprimand;
9 2. Respondent shall pay a fine of \$1,000.00; and
10 3. Respondent shall attend and participate in ten (10) hours of
11 Continuing Medical Education in patient interaction or related topics and
12 provide proof of attendance to the Board.

13 DATED this 27th day of September, 2011.

14 NEVADA STATE BOARD OF MEDICAL EXAMINERS

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17 Beverly A. Neyland, M.D., Member
18 Nevada State Board of Medical Examiners
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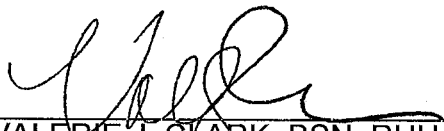
CERTIFICATION

I certify that the foregoing is the full and true original FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER on file in the office of the Board of Medical Examiners in the matter of JAMES S. TATE, M.D., Case No. 09-9809-1.

I further certify that BEVERLY A. NEYLAND, M.D., is the senior member of the Adjudicating Board of the Nevada State Board of Medical Examiners and that full force and credit is due to her official acts as such; and that the signature affixed to the foregoing ORDER is the signature of said BEVERLY A. NEYLAND, M.D.

IN WITNESS THEREOF, I have hereunto set my hand in my official capacity as Secretary-Treasurer of the Nevada State Board of Medical Examiners.

DATED this 28th day of September, 2011.


VALERIE J. CLARK, BSN, RHU, LUTCF
Secretary-Treasurer
Nevada State Board of Medical Examiners